

From: bbc@bealenet.com@inetgw
To: Microsoft ATR
Date: 11/16/01 2:49pm
Subject: you have failed to do your job

First, let me say that it was obvious to many software professionals that Microsoft had violated the consent decree. Of course Internet Explorer was separate from the operating system, and had been bundled! At the same time that Microsoft was bundling Explorer with Windows, it was providing Explorer for Apple's MacOS. Obviously, if Explorer was available as a separate product for another vendor's operating system, and could so easily be added to another vendor's operating system, then it had been added to Microsoft's operating system as well. The fact that Microsoft's engineers had wedded Explorer tightly or loosely to Windows was not relevant. They provided an application as a product for another company's operating system, and included that same application with their own operating system, obviously in violation of the consent decree. Any discussion of whether or not it could be easily removed from Windows is unimportant. They agreed not to bundle, and then they did bundle.

Next, the fine for contempt of court, when Microsoft failed to comply with Judge Jackson's orders, was too small by an order of magnitude or so. An easy and effective strategy for Microsoft, rather than relying on lawyers, would have been to simply take its sweet time in "separating" Explorer from Windows, and simply pay the fine. What was the fine, \$1million per day? Say that Microsoft simply had taken 6 months to essentially do nothing but gain even more market share from Netscape and others by continuing to bundle Explorer with Windows. Put this seemingly large amount of money in its proper perspective by comparing this to the marketing money that Microsoft cheerfully spent promoting each release of its Windows operating system. You will see that \$180 million would be an acceptable price for the "product launch" of Explorer. In the future, judges contemplating fines should not rely on history, but on the problems in front of them at the moment.

Moving right along, to the next legal disaster...

Splitting Microsoft should have been allowed as a remedy. It should have never been taken off the table.

In fact, Microsoft should have been split into separate parts.

At the very least, one company should have been given the applications, and another the operating systems. Probably other parts should have been split off as well. Among other reasons to choose this remedy it has the benefit that it would be obvious to the government whether or not Microsoft was complying with it. The current settlement does not have this nice property, and I predict more legal action against Microsoft will be indicated, if not taken, before too long.

There remains no great incentive for Microsoft to provide Office on OS platforms other than its own, other than the threat of more legal action. Microsoft Office

(and Word in particular) is a de facto standard and requirement in the business community. Allowing Microsoft to force the rest of its software on us by attaching it to the Office suite is wrong, expensive, and harmful to the consumers.

For example, the success of Apple's MacOS operating system is dependent on the availability of Microsoft's Office suite. The likelihood of that availability continuing would be improved if the people selling Office did not have an interest in seeing sales of Windows 2000, Windows XP, etc also increase.

Notice that Office is not available for any version of Unix other than MacOS X. Why is this? Given that Microsoft has gone to the expense of porting Office, why would they not make the modest additional effort to port it to other versions of Unix? Certainly Microsoft could sell more copies of Office, if it would also sell to the entire Unix market (including Linux). The existence of a market for the Office suite on the Unix operating system is evident from the existence of StarOffice, a poor knockoff, created initially by a single person, without much funding, and since purchased and adopted by Sun Microsystems. But for Microsoft to port and sell Office for Unix would mean less sales of Microsoft Windows. This linkage needs to go away. Microsoft Office is expensive enough already as it is, without the consumer being obligated to also pay for Windows, and incur additional network effects from also being tied to that operating system.

I wonder, though, as I bother to write all this, what the point is, in even trying to make this letter as informative and clear as it is (which is not very, yet). You have already settled. What remains?

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